UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,009	04/20/2001	Steven Duane Myers	1475	2733

			EXAMINER
28004	7590	06/15/2006	BEAMER, TEMICA M

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ART UNIT	PAPER NUMBER
2617	

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

		Application No.	Applicant(s)
Office Action Summary		09/839,009	MYERS, STEVEN DUANE
		Examiner	Art Unit	
		Temica M. Beamer	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 March 2006*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-28* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,6,9-13,17 and 20-28* is/are rejected.

7)☒ Claim(s) *3-5,7,8,14-16,18 and 19* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed March 21, 2006 have been fully considered but they are not persuasive. Applicant argues that Busuioc fails to disclose **requirements of a broadband wireless service** (i.e., **what the broadband wireless service requires of a communication device for basic operation of the device with the service**). The examiner, however, disagrees.

Busuioc discloses software agents that provide a wide range of services to mobile devices. Busuioc also discloses wherein these services have specific requirements (col. 1, lines 47-56). Busuioc further discloses wherein these agents work cooperatively to collate their available link capabilities and cell bandwidth in a "resource configuration" required for a particular service.

Based on the above remarks, the examiner believes that Busuioc taken alone and in combination reads on the invention as presently claimed. The rejections to claims stand as set forth below.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 2, 6, 10-13, 17, 21-24, 27 and 28 are rejected under 35 U.S.C. 103(a)

as being unpatentable over Busuioc et al (Busuioc), U.S. Patent No. 6,151,309 in view

of Gupta et al. (Gupta), U.S. Patent Pub. No. 2002/0120713.

Regarding claims 1 and 12, Busuioc discloses a software product (and method)

for qualifying communication devices for broadband wireless services, comprising

qualification software (i.e., reads on intelligent software systems or agents) configured

when executed by at least one processor to direct the at least one processor to identify

requirements (i.e., bandwidth availability) of a broadband wireless service, and a

software storage medium (i.e., inherently the software system or agent is stored as it

has a distributed architecture) configured to store the qualification software (col. 1 , lines

47-55).

Busuioc fails to explicitly disclose execution of an application to determine

configuration information for a first communication device (mobile), and perform a

comparison of the configuration information to the requirements of the broadband

wireless service to determine if the first communication device is qualified to receive the

broadband wireless service.

In a similar field of endeavor, Gupta discloses execution of an application to

determine configuration information for a first communication device (mobile), and

perform a comparison of the configuration information to the requirements of the

broadband wireless service to determine if the first communication device is qualified to

receive the broadband wireless service (page 3, (0033)).

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify Busuioc to include software means determining whether or not broadband is available for the purpose of determining capabilities of a wireless device as to whether broadband service is installable on said device.

Regarding claims 2 and 13, Busuioc as modified by Gupta disclose the software product of claims 1 and 12, wherein a second communication device (i.e., reads on "another agents") is configured to execute the qualification software to: identify the requirements of the broadband wireless service (see Busuoic col. 4, lines 7-13) transmit the application to the first communication device (see Busuoic col. 4 ,lines 47-53), receive the configuration information from the first communication device (see Busuoic col. lines 7-13), and perform the comparison to determine if the first communication device is qualified to receive the broadband wireless service (see Busuoic col. 3, line 60 to col. 4, line 13).

Regarding claims 6 and 17, Busuioc as modified by Gupta discloses the software product of claims 1 and 13 wherein a second communication device is configured to execute the qualification software to: identify the requirements of the broadband wireless service, and (see Busuoic col. 4, lines 7-13)., transmit the application to the first communication device (see Busuoic col. 4, lines 47-53).

Regarding claims 10 and 21, Busuioc as modified by Gupta disclose the software product of claims 1 and 12, wherein the qualification software is further configured to direct the at least one processor to determine upgrades for the first communication device based on the comparison (see Busuioc col. 4, lines 7-13).

Regarding claims 11 and 22, Busuioc as modified by Gupta disclose the software

product of claim 10 wherein the qualification software is further configured to direct the

at least one processor to determine business information for businesses that provide

the upgrades (see Busuoic col. 9, lines 3-17).

Regarding claim 23, Busuioc as modified by Gupta disclose a communication

device qualification system, as applied in the other independent claims 1 and 12 and

additionally discloses an interface configured to receive the application from the

processing system, transmit the application to the first communication device, receive

the configuration information from the first communication device, and transfer the

configuration information to the processing system (see Busuoic col.3, lines 52-59).

Regarding claim 24, Busuioc as modified by Gupta disclose the communication

device qualification system of claim 23 wherein the processing system is fudher

configured to generate results based on the comparison and wherein the interface is

further configured to transmit the results, the configuration information, and the

requirements to the first communication device for display by the first communication

device (see Busuoic col. 9, lines 3-10).

Regarding claim 27, Busuioc as modified by Gupta discloses the communication

device qualification system of claim 23 wherein the processing system is further

configured to determine upgrades for the communication device based on the

comparison (i.e., reads on based on range of offered services) (see Busuoic col. 9, lines

1-16).

Regarding claim 28, Busuioc as modified by Gupta discloses the communication device qualification system of claim 27 wherein the processing system is further configured to determine business information for businesses that provide the upgrades (see Busuoic col. 9, lines 1-16).

3.	Claims 9, 20, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Busuioc and Gupta, in view of Mayo et al. (Mayo), U.S. Patent No.

Regarding claims 9, 20 and 26, Busuioc as modified by Gupta discloses the software product of claims 1,12 and 24 but fails to disclose wherein the application comprises an applet.

In a similar field of endeavor, Mayo discloses wherein the application comprises an applet (col. 9, lines 1-5).

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify Busuioc and Kilp to include an applet user interface object for accessing an URL as is known in the ad.

Regarding claim 25, Busuioc as modified by Gupta discloses the software product of claim 23, but fails to disclose wherein the first communication device is configured to execute the qualification software to format the results, the configuration information, and the requirements based on HyperText Transfer Protocol (HTTP) format.

In a similar field of endeavor, Mayo discloses wherein the first communication

device is configured to execute the qualification software to format the results, the

configuration information, and the requirements based on HyperText Transfer Protocol

(HTTP) formattcol. 4,lines 36-43).

At the time of the invention it would have been obvious to one of ordinary skill

in the art to modify Busuioc and Gupta to include configuration information in HTTP

format for the purpose of implementing Internet technologies as is known in the art.

Allowable Subject Matter

4.   Claims 3-5,7,8,14-16,18,19 are objected to as being dependent upon a rejected

base claim, but would be allowable if rewritten in independent form including all of the

limitations of the base claim and any intervening claims.

Reassignment Affecting Application Location

5.   The Art Unit location of your application in the USPTO has changed. To aid in

correlating any papers for this application, all further correspondence regarding this

application should be directed to Art Unit *2617.*

Conclusion

6.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Temica M. Beamer whose telephone number is (571) 272-7797. The examiner can normally be reached on Monday-Thursday (alternate Fridays) 7:00am-4:00pm.
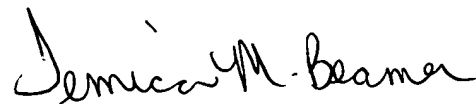
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Primary Examiner
Art Unit 2617

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PRIMARY EXAMINER